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SENATE BILL 1125

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

FERNANDO R. MACIAS

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL SENTENCING; ENACTING THE RACIAL JUSTICE ACT; PROHIBITING THE IMPOSITION OF CAPITAL PUNISHMENT ON THE BASIS OF A DEFENDANT'S RACE OR ETHNICITY; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 8 of this act may be cited as the "Racial Justice Act".

Section 2. [NEW MATERIAL] PROHIBITION AGAINST CAPITAL PUNISHMENT ON THE BASIS OF A DEFENDANT'S RACE OR ETHNICITY. -- A defendant shall not be put to death under color of state or federal law as the result of a sentence imposed on the basis of the defendant's race or ethnicity.

Section 3. [NEW MATERIAL] ESTABLISHMENT OF INFERENCE. -- An inference that a defendant was sentenced to death on the basis

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1 of the defendant's race or ethnicity is established if relevant  
2 evidence is presented to demonstrate that, at the time the  
3 defendant was sentenced to death, race or ethnicity was a  
4 statistically significant factor in other capital felony cases  
5 in the jurisdiction.

6 Section 4. [NEW MATERIAL] RELEVANT EVIDENCE. -- Relevant  
7 evidence necessary to establish an inference that a defendant  
8 was sentenced to death on the basis of the defendant's race or  
9 ethnicity may include evidence that death sentences in other  
10 cases in the jurisdiction were:

11 A. sought on a statistically significant greater  
12 frequency against defendants of a certain race or ethnicity as  
13 compared to defendants of another race or ethnicity; or

14 B. imposed on a statistically significant greater  
15 frequency against defendants of a certain race or ethnicity as  
16 compared to defendants of another race or ethnicity.

17 Section 5. [NEW MATERIAL] DETERMINATION OF VALIDITY OF  
18 THE EVIDENCE-- REVIEW OF DETERMINATION. --

19 A. When evidence is presented to establish an  
20 inference that a defendant was sentenced to death on the basis  
21 of the defendant's race or ethnicity, the district court shall  
22 determine the validity of the evidence and whether it  
23 establishes the inference. Among other evidence it may  
24 consider, the district court shall analyze evidence of statutory  
25 aggravating circumstances present in other capital felony cases

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1 in the jurisdiction and compare the final disposition of other  
2 capital felony cases in the jurisdiction involving defendants of  
3 different races or ethnic backgrounds with the instant capital  
4 felony case.

5 B. At the request of the prosecuting attorney or  
6 defense counsel, the district court's determination regarding  
7 the validity of evidence offered to establish an inference that  
8 a defendant was sentenced to death based upon the defendant's  
9 race or ethnicity is subject to de novo review by the supreme  
10 court.

11 Section 6. [NEW MATERIAL] REBUTTAL OF INFERENCE. --

12 A. When an inference is established that a defendant  
13 was sentenced to death based upon his race or ethnicity, the  
14 sentence of death shall not be carried out unless the state  
15 successfully rebuts the inference by a preponderance of the  
16 evidence.

17 B. The state cannot rely upon a mere assertion that  
18 it did not intend to discriminate on the basis of race or  
19 ethnicity when imposing a sentence of death on a defendant.

20 Section 7. [NEW MATERIAL] CAPITAL FELONY CASES--DATA--  
21 SERVICES--COSTS.--Data collected by public officials regarding  
22 factors relevant to the imposition of a sentence of death in  
23 capital felony cases shall be available to the public. A  
24 defendant in a capital felony case who is indigent shall be  
25 provided with legal representation and access to all facilities

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1 and services necessary to present a defense. The cost of  
2 providing an indigent person with the services necessary to  
3 present a defense shall be compensated from the state general  
4 fund.

5 Section 8. [NEW MATERIAL] AFFECT ON OTHER CAPITAL FELONY  
6 CASES.--The Racial Justice Act shall not be interpreted to  
7 affect the validity of a sentence of death imposed on a  
8 defendant in a capital felony case when the sentence was not  
9 based upon the defendant's race or ethnicity.

10 Section 9. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 1997.